Papers regarding the expunging of the Council Proceedings.

Mr. N. Padmanabha Menon.—May I ask whether the Legislative Council and the Government are separate ?

President.—We keep it separate for all practical purposes although there is one and the same person as head of both.

Mr. A. B. Salem.—Two papers which were excluded from the Legislative Council seem to have appeared in the papers. That attitude of the Government is not correct. The Legislative Council is a part of the Government.

President.—For all formal purposes we keep the Legislative Council as separate. If you ask the Legislative Council or the President of the Legislative Council who is also the head of the Government, it is all the same. Now the thing is very clear.

Mr. A. B. Salem.—The two papers appeared in the columns of a newspaper, and so it was asked here. Both the papers were published in the "*Hindu*" practically.

President.—All the members might not have seen the publication in that paper. The two papers submitted will be considered as matters of public importance after lunch. And so I propose an adjournment as there is no time to consider the two papers now.

The nomination of the Chairman of the Cochin Tenancy Regulation Amendment Bill. Select Committee.

Mr. N. Padmanabha Menon.—I want some information; whether there is a report from the Chairman of the Select Committee appointed to consider the Amendment to the Regulation that a vacancy has arisen in it.

President.—I shall state all the facts at present, and I hope your doubts will be cleared soon.

I have tabled this item, viz., the nomination by the President of the Chairman of the Cochin Tenancy Regulation Amendment Bill of the Select Committee as an item in the business statement of to-day not without knowledge on my part that I have the power to nominate a Chairman of the Select Committee without reference to the Legislative Council. My special object in tabling this item is to remove certain erroneous impressions which have caused needless perturbation in the minds of the Members of this House and of a major portion of the tenancy population. I therefore take this opportunity to make a statement of facts which I hope will remove all those erroneous impressions. The one basic fact to be clearly remembered in connection with this Amendment Bill is that the Government keep an open mind in regard to the amendments brought

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forward by Mr. C. A. Kunjunni Raja. On this basic fact all the inferences and implications have to be made. The time has not yet arrived for the Government to commit themselves to a definite view in this matter. Well, it is asked, are there not sufficient reasons for the tenants and the representatives of the tenants to infer that the Government have identified themselves with the Amendment Bill of Mr. C. A. Kunjunni Raja? The question is asked why the Jenmi Member has been entrusted with the business of piloting this Bill through the Legislative Council. Why again in contravention of the usual convention, was it that this particular Bill was allowed to be published in the Government Gazette without passing through the first course of obtaining leave for introducing this Bill in the Legislative Council, and lastly, it is asked why the Government or the Diwan should be very particular in appointing Mr. Kasturi Ranga Ayyar as a Member of the Select Committee in contravention of the Council Law. After I have taken my seat in the Council to-day I had occasion to read a statement signed by 17 of the non-official Members of this House to the effect that they emphatically protest against the order of the Diwan in appointing Mr. Kasturi Ranga Ayyar as a Member of the Select Committee. They say that that order is illegal, unconstitutional and subversive of the rights and principles of the House. In regard to all these circumstances, I have to make a plain statement. I would like to state the facts in as plain and unvarnished a manner as possible, and if my statement will not be believed, I cannot help it.

Mr. A. B. Salem.—No, no, we will believe it.

President.—Well, then, the question is whether this Tenancy Regulation which was passed so long ago as 1090 required any amendment, and if so, in what particular; and this question was engaging the attention of the Government for some time. Enquiries were being made and materials collected on the point. Thus when the time came, I, in consultation with the Law Member, thought it not fit and proper for the Government to come forward with a Bill of their own. That, I thought, would be committing the Government to a definite position. The proper course appeared to be that the Government must keep an open mind and allow a full opportunity for this matter to be discussed, all the pros and cons fairly and fully considered and then arrive at a decision. Mr. C. A. Kunjunni Raja was referred to in this connection, and he undertook the task of presenting a Bill and piloting it through the Council and so it was brought forward. In the circumstances it was considered proper to publish the Bill in the Gazette without the preliminary step of leave being obtained. From these facts it is, I think, unfair to suppose that the Government have

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a particular interest in seeing that Mr. Kunjunni Raja's Bill is passed and that all the advantages that the tenants got by the Tenancy Regulation of 1090 should be taken away. It has reached my ears that reports are abroad that the Government are interested in seeing that this Bill is rushed through the Council at all cost before its life comes to a close. The Government are prepared, if necessary, to prolong the life of the Council for the purpose of getting this measure through. The usual term of this Council is, as you all know, 3 years and the Government are, it is said, bent upon prolonging the life of this Council till this Tenancy Regulation Amendment Bill is passed. Such are the rumours set afloat, and I am really surprised at them. Well, I am surprised that these grievous apprehensions should ever have been entertained without the slightest basis for them. The Government are not at all interested in seeing that the Bill is passed and rushed through somehow or other. If that be the object of the Government, why should the Government await for 4 months without getting any work done. The Select Committee was appointed at the Council meeting in Meenam last. Its Chairman, Mr. Kasturi Ranga Ayyar, entered upon his duties, and he went on leave in Mithunam end or so and he rejoined his office on the 1st Chingam 1103. After that nothing was done to fill up the vacancy all the time. The Government were waiting for the usual sitting of the Council to get his nomination as Chairman made. Mr. Kasturi Ranga Ayyar having been already appointed as Chairman, Government wanted to see that he comes into his original place and continues his work, and for this purpose the Diwan, taking into careful consideration the relevant provisions on the subject, and having sought the necessary advice from the Government Law Member, passed an order appointing Mr. Kasturi Ranga Ayyar as a Member of the Select Committee by virtue of Standing Order 34, clause 5. Well, the legality of this order is being questioned and for the purpose of making out the legality, various arguments have been presented. I do not deny that there is scope for argument on both sides in this matter. It is also said in this connection that the right of the Legislative Council to appoint a Member of the Select Committee was flouted away by the Diwan by appropriating the power to himself. It is said that, under the Standing Order 33, clause (2), the power is vested in the Council. From my point of view, the question does not arise for serious consideration. All I can say is that all the aspects of the case have been duly considered and a decision come to in this matter. There may be arguments to support either views.

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In fact nobody can say that this is the only right decision possible and that the decision arrived at by the Diwan is not a correct one. These are questions into which I am not at present going to enter. I am not concerned now with the legality or otherwise of the order passed by the Diwan appointing Mr. Kasturi Ranga Ayyar as Member of the Select Committee. Coming to the immediate point that I want to place before the Council, practically very little work has been done by the Select Committee till now except holding one or two meetings.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Only one meeting.

President.—the selecting of certain papers and the printing of certain records. Nothing having been done in this matter, what I have been seriously considering is whether this Select Committee should be permitted to continue its work or whether we may not ask the Select Committee to stop all work, on account of the special circumstances to which I will make reference shortly. I may tell you, speaking for myself, that I honestly believe that this Select Committee will not be able to do any substantial work in the way of presenting its report before the life of this Council comes to a close and in all probability this Council will be terminated by the end of Kumbham, and by that time the Council would have lived its 3 years' existence. Probably at the end or about the middle of Meenam 1100 this Council was inaugurated and it will be reasonable to dissolve this Council by the end of Kumbham next. I do not make any positive statement on that point. I think that will be the proper and reasonable time for terminating this Council. Within 3 months very little work can be done by the Select Committee and I had the assurance from the Diwan Peishkar, whom I have taken into confidence in this matter, that he even doubts whether the stage of examination of the witnesses will be reached. So many preliminary arrangements will have to be made, lists of witnesses will have to be prepared and there are so many other processes to be gone through before the actual examination of witnesses is started, and he for his part has assured me that the work that could be done in this short time would be very little and what little would be done would only be a mere waste of time. Well, I have paid due heed to his statement and, even yesterday evening I had a long consultation with the Diwan Peishkar and the Law Member as to the course we ought to pursue in this matter. Only two courses are now possible. To appoint the Chairman and allow him to proceed with the work with the certain knowledge that very little work will be done, or not to appoint a Chairman and allow the Select

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Committee a long holiday. These are the two courses open for consideration. The one feature to which I have to draw your attention is this; the Select Committee having been appointed, and the Select Committee having done some work, though it is very little, whether it will be proper on our part to allow it to be there or whether it will not be proper to fill up the vacancy of the chairmanship and ask the committee to do whatever work it can and then to have that material ready for the new committee that will certainly have to be formed from the Members of the second Council. This is one aspect of the case. There is the other aspect of the case. If nothing substantial could be done by the Select Committee, why should we proceed with the work; what is the use of collecting some materials? Why should that be done? It is quite possible that the new Select Committee that will have to be formed out of the Members of the second Council will say, we are not going to be guided by the materials collected by the former Select Committee. We are going to investigate the matter afresh.

Then another matter which complicates the position a bit is that, now this Tenancy Regulation Amendment Bill of Mr. Kunjunni Raja is being proceeded with by a particular Select Committee, we have got the Jenmi-Kudiyan Bill of Mr. Rama Ayyar for which, adopting the usual convention, leave will be given in this meeting to introduce the same at this meeting; and assuming that that motion for the second reading is passed, a Select Committee will have to be appointed. Then another Select Committee will have to be formed which will have to perform the duties in connection with Mr. Rama Ayyar's Bill. Here another Committee will be doing the same work and both committees will be engaged in doing different kinds of work in respect of the same subject matter, and after all nothing will be done even with Mr. Kunjunni Raja's or Rama Ayyar's Bill in the life time of this Council and therefore it is asked why should we proceed with this work. These are the two conflicting positions in this matter and I, for my part, have not come to a definite decision in the matter. I have purposely tabled this motion for the purpose of enabling the Members to help me with their suggestions, so that I may come to a proper decision on the matter as to whether I should proceed to the appointment of a Chairman for the Select Committee. I would ask Members whom I have in view one by one and I shall name them and they will kindly tell me what they consider the proper course to be; and if amongst the Members not named there is any wishing to speak on the subject I shall only be too glad to give him an opportunity.

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If my present unvarnished statement before the Council in this matter has not convinced you of the real attitude of the Government and if you still continue to entertain suspicions and misapprehensions, I have nothing to say. What has all along been working in my mind I have now disclosed. I do not positively assert that there may not be circumstances which justify you in supposing the *bona fide* of my oral statement.

Dr. A. G. Menon.—We do not suspect in the least.

President.—The reasons for the particular positions taken up by the Government at different stages have now been fully stated by me. With these remarks, I will now call upon Mr. Kasturi Ranga Ayyar to state his views.

Mr. C. Achyuta Menon.—Will it not be better to have the non-official opinions first?

Dr. A. G. Menon.—He was the President of the Select Committee. We will all hear him first.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The circumstances under which this Bill was introduced, and the circumstances under which the Select Committee was formed are also so well known that I need not dilate upon them here. Well, the Select Committee was formed at the meeting of this House in Meenam last. The appointments were announced early in Medam, and I think we gave a definite undertaking that the first thing that we will do is to examine the old literature on the subject, make a selection of all the relevant papers and print them for reference by the Select Committee. That was the first item of the work that I, as the Chairman of the Select Committee and as Diwan Peishkar, had undertaken to do. Well, very faithfully to that promise, the first meeting of the Committee was held on the 19th of Medam, soon after that Easter Holidays intervened. There was no unreasonable waste of time nor avoidable delay. I think we held the first meeting at the earliest possible opportunity after ascertaining the convenience of all the Members, who were 19. As this Council allowed us only a period of 6 months within which to complete the labours of the Committe, I chalked out a programme of work with the intention of making a very honest attempt to see if the work can be got through within the period of 6 months. I prepared a provisional programme of work, and that was placed before the first meeting of the Select Committee. Most of the Members attended the meeting, and they kindly considered all the aspects of the question; and the plan of action proposed by me was approved by the Committee. The first item in the programme was to make a selection of all papers and get them printed as early as possible. We asked the Government to give

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a special clerk for that purpose and the Government very readily responded and a clerk was put on that duty. I examined all the papers and made a very careful selection of the papers, and the printing was got through vigorously. Of course, time was an inevitable factor, but I believe we completed it by about the end of Edavam. Then it was also resolved that as Mr. Kunjunni Raja's Bill was published in the Gazette, some two or three months before, and in as much as the jenmies as well as the tenants are not mostly conversant with English, it would only be right and proper to translate not only Mr. Kunjunni Raja's Bill but also the original Regulation embodying in it all amendments proposed against the original sections in justaposition and then invite criticisms from the public not only in respect of the particular amendments proposed by Mr. Kunjunni Raja but also to give effect to the wishes of the Council that the larger question of amending the Tenancy Regulation as a whole may also be taken into consideration by the Select Committee. So, I think about the middle of Edavam, in accordance with the programme laid down by me, a notification was published in the Gazette embodying the full text of the original Regulation and amendments proposed, in English and Malayalam, and inviting criticisms. The result of the notification was that we received, I must say, a series of representations from the tenants as well as from the jenmies that the time that we allowed, that is, up to the 15th of Mithunam, was absolutely inadequate to consider the question in its various aspects, and also to enable all interested parties, the tenants as well as the jenmies and the urallers of Devaswams to present their views, and also for the Members of the Select Committee to go through the whole literature and to present their considered views. By that time, I happened to go on privilege leave, and therefore had to resign my Membership of the Legislative Council and automatically my Chairmanship of the Select Committee. But we got through the printing and my office continued to receive criticisms, and, just before I went on leave, having regard to the persistent requests of the tenants as well as the jenmies, I extended the period for submission of criticisms (with the subsequent ratification of my colleagues) for a further period of two months. Most of the tenants were holding meetings and they were not satisfied with the extended period of 2 months. Nevertheless, by the 15th of Chingam, we received not less than 200 criticisms. Even then they were not satisfied with the time allowed for criticisms. Then the Government as well as the public realised the seriousness of the situation. The matter, being a very important one in which the vital interests of the

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land-holding classes were essentially concerned, should not be rushed through. So, the appointment of another Chairman in my place, or my re-appointment as Chairman was not considered to be a very urgent matter. Government wanted that the public should have some breathing time, some more time, to consider the whole matter and then take up the question, if necessary, when the Council met next. Now, having regard to all the criticisms received and also to the attitude of the tenants as well as the jenmies towards these amendments, and having regard also to the fact that the Council is prepared not only to consider Mr. Kunjunni Raja's amendments but also any amendments to the Tenancy Regulation, framed new Bills, like that of Mr. Rama Ayyar's Jenmi-Kudiyan Bill and Mr. Chakko's another amendment regulation to the Tenancy Regulation, were presented in the Select Committee, and we are all aware that Mr. Rama Ayyar has applied for leave to introduce that Bill, and to the best of my information Mr. Chakko has also applied for leave. I suppose I am right there. Among the criticisms received there are, I think, also, some important amendments suggested by the jenmies in the way of general amendments to the Tenancy Regulation as well as special amendments to Mr. Kunjunni Raja's Bill. All these things have to be taken into consideration by the Select Committee. The task before any committee is formidable, and unless we study all the papers carefully, analyse all those criticisms, crystallise the points in issue and place them, as it were, in a nut-shell, it is impossible for a man of ordinary common sense, ordinary intellect and ordinary training to come to a decision in a matter like this. The task is so formidable that if you look at these criticisms your conscience will dictate to you that you should pay your undivided and concentrated attention to all the points in the criticisms. Where are we now? We have come to the end of Vrischigam. Even if I am re-appointed or if any colleague of mine in this Council is appointed as Chairman by the President of this House after consulting the Members, the first business he will have to do will be to study all the criticisms and then, like a student appearing for a competitive examination, he must spend midnight oil to note down all the issues and prepare a memorandum of points requiring consideration. Afterwards he will have to prepare a questionaire, and this questionaire will have to be sent to all the persons interested in this question, tenants, jenmies, lawyers and others, and this process,—the process of preparation of questionaire and transmitting them to all interested parties—even if you expedite with all the expedition that one is capable of, will take at least nearly 6 weeks. So from the first of Dhanu,

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six weeks will take us to the 15th of Makaram, and some time must be given to the recipients of the questionaires to answer the questionaires, and an opportunity will have to be offered to some of them for tendering oral evidence. The Committee will have to sit for this purpose in a number of centres. If you have two centres for a taluk—there are 6 taluks including Cranganur—there will be 12 centres, and then 3 days for each centre and 2 days for transit will be required. That is 2 months; afterwards one month to enable these gentlemen to give their answers; 1½ months for preparation of questions and one month for furnishing answers is 2½ plus 2 months for the examination of witnesses. So the least time required for the speedy completion of these items of work will be 4½ months. And the Committee will have to meet three or four times to arrive at conclusions on all points of issue, and then decide on which lines the report should be drafted. This is the next important item in the programme and it is an item that will take some three months. So, the least time that would be required is 7½ months. Then there are so many other unforeseen contingencies that may occur. The life of the Council will expire by the end of Kumbham. We have only Dhanu, Makaram and Kumbham. If at all we begin work, we can do very little work in Dhanu owing to Christmas holidays intervening—absolutely very little work can be done during the life-time of this Council. It is physically impossible to present any report for consideration of this Council. When the Council is dissolved, the Bill will lapse, unless the Member is returned again, and even then it is not clear at what stage it will be taken up and what use can be made of the materials. Our Standing Order No. 4 is not clear on that point. I suppose I am not taking too much of your time. I shall cut short my speech. I only want to make the Government position clear. It is absolutely impossible to do anything within the life-time of this Council.

President.—I mean to say, in the case of private Bills, if the Member is returned again, he can introduce. If the Member is not returned, any other Member, with the leave of the Council, can take it up.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—But it is not clear at what stage he can take it.

President.—Reasonable stage.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Therefore whatever work we do, as stated by you so clearly, will be of very little use, the time and money that we spend will be of no use and the new Council may refuse to act on the materials gathered by us. So, after thinking over the matter very carefully, I have

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come to the conclusion that it is not possible to do any useful work before the end of Kumbham or within the life-time of this Council.

President.—Mr. Raja, do you like to say anything ? You are the mover.

Mr. C. A. Kunjunni Raja.—Since the Member for Land Revenue assures that the work will not be finished, speaking for myself, I must say, a Chairman need not be appointed and under Standing Order No. 4, if I am not returned again, my successor will be able to continue with the permission of the Council. If I am not returned, the Bill may lapse. But there is a provision to remove all those obstacles.

Mr. K. T. Mathew.—Hearing the Jenmi representative's reply, I do not wish to speak because he does not insist on taking up this Bill.

Mr. C. Achyuta Menon.—I quite agree with the Diwan Peishkar that it will not be quite possible to finish the work during the life-time of this Council and I don't want to take exception to what you have said with regard to the attitude of the Government in this matter. So far as I know, nobody has told me that Government want to rush the Bill through during the life-time of this Council. On the other hand, many people thought that Government wanted the Bill to be indefinitely delayed so that it might lapse by the end of this Council. And there was some good reason to suspect that the Government did want the Bill to lapse. The position of the Members of the Select Committee, no doubt, without any deliberate intention on the part of the Government, had been made one of great humiliation. I never felt more humiliated than I did as a Member of the Select Committee. This is a question in which my constituents feel very keenly. They used to come to me very often to make enquiries about the progress of our work. Every time I had to send them back with the reply that we had not done anything. They ask me "why are you in this Committee if you have not done anything." I have to say, "I am quite helpless." "If you are quite helpless, why are you in this Council, why are you in the Committee? Why don't you resign your Membership ?" We were not informed of the resignation of the Chairman officially. We were asked to report within 6 months. Six months have elapsed and we have done absolutely nothing. No extension of time was asked for, nor granted.

Mr. C. A. Kunjunni Raja.—Extension of time I applied for. We want the Member in charge of the Bill to apply.

Mr. C. Achyuta Menon.—The Member in charge was then up in a balloon. We who were on mother earth could not see anything of his doings.

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Mr. A. B. Salem.—He has descended.

Mr. C. Achyuta Menon.—We never heard anything about any application for extension. We never heard of any sanction being given for extension of time. We were kept in the dark about the whole matter and only last week, a prominent member of my constituency came to me and said:—'Why, Sir, why are you in this Council in this humiliating position? You are a Member of the Select Committee. Yet you know absolutely nothing of what the Committee has been doing all the while.' It was a very humiliating position indeed.

President.—If they did any work, you are bound to know that.

Mr, C. Achyuta Menon.—Why did not the Committee do any work? Because the Chairman resigned and the Government did not take any action in the matter. What I say is that we never thought that the Government wanted to rush through the Bill.

President.—That is my statement.

Mr. C. Achyuta Menon.—I accept the whole statement. It is not necessary to go further in this matter. I have a suggestion to make. That is, these Bills may be asked to be withdrawn on an assurance from Government that they will appoint a business-like committee of about 7 Members to go into the whole tenancy question.

Dr. A. G. Menon.—Do you say that the present is not a business-like one?

Mr. C. Achyuta Menon.—An unwieldy committee.

Dr. A. G. Menon.—Appoint a committee like the Raghavaiah Committee!

Mr. C. Achyuta Menon.—Not exactly like the Raghaviah Committee. What I say is the next Council can take up the question, and then will all the material papers be placed before them, and then you can proceed with the Bill which need not be referred to a Select Committee. If the Government will assure so—I have not consulted my friends—if the two Members will withdraw their Bills, then, that will be a proper solution. If the Council is dissolved, the whole thing goes away.

Dr. A. G. Menon.—Just like the Finance Committee. That was not working for months or years together and you are the President of that also.

Mr. George Chakyamuri.—That is why he calls working committees.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There should be no reflections against the Committee.

Dr. A. G. Menon.—Certainly not. If there is anything, we will certainly object.

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President.—From what I heard, there is no necessity for appointing a Chairman, and let the matter stand where it is. I don't propose to fill up the Chairman's place in the Select Committee.

What is the next item? Are we to continue yesterday's discussion?

Mr. T. K. Krishna Menon.—Yes, Sir.

Mr. C. A. Ouseph.—A point of order, Sir. Suppose a Member of the Committee wants to resign, to whom should the letter of resignation be sent?

President.—Let him have the Membership.

Mr. C. A. Ouseph.—Suppose I want to resign. I do not want to be a Member.

President.—You think out your own means for that.

Mr. A. B. Salem.—Please consult a lawyer.

The Usurious Loans Bill.

President.—The next Bill is the 'Usurious Loans Bill'. The next amendment is to clause 3, 2 (a). The clause as it is:—"In this section 'excessive' means in excess of that which the court deems to be reasonable having regard to the risk incurred as it appeared or must be taken to have appeared to the creditor at the date of the loan." Clause 3, as amended by Mr. Kochunni Menon is as follows :—"In this section 'excessive' means in excess of 12 per cent per annum."

Mr. V. K. Kochunni Menon.—The object of the amendment is this. The provisions of the Regulation are as vague as can be; for the settlement of every minute thing we must have recourse to court. If in this respect there is some definiteness we can avoid some litigation at least.

President.—Is it not copied from the British Act?

Mr. V. K. Kochunni Menon.—It is copied from the British Act. That is why I am not bold enough to criticise the language. See how vague the provisions are. Excessive means that which the court decides to be excessive ; unfair that which the court deems unfair. These are the practical definitions. The powers of the court are so wide that nothing can be finally settled without recourse to a court of law. There cannot be any finality if any transaction is settled between the parties. If old accounts are settled and a fresh document taken that can be re-opened again within a period of six years. My amendment, if allowed, would restrict the court's right to interfere in cases in which the rate of interest stipulated is more than 12 per cent, that is to say, if the interest is only 12 per cent or less, the courts cannot interfere with the contract.

President.—The court cannot decree less than that.

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